THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and

THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

DATED : 20-09-2005

WRIT PETITION NO : 12858 of 2004

BETWEEN:

The Regional Director of Medical

Health Services, Zone VI, Hyd. And others. .. Petitioners

And

Smt M.Manjula Rani .. Respondents

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and

THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

WRIT PETITION NO : 12858 of 2004

ORDER: (Per the Honourable Smt. Justice T.Meenakumari)

The present writ petition is filed by the petitioners-State questioning the order, dated 12.05.2004 in O.A.No.8226 of 2003 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad.

The respondent in W.P.No.12858 of 2004 has filed O.A.No.8226 of 2003 before the A.P. Administrative Tribunal, Hyderabad to call for the records pertaining to memo dated 21.11.2002 issued by the first petitioner herein placing the respondent under suspension and to declare the proceedings as illegal and arbitrary and for further direction to reinstate the respondent into service.

The brief facts that led for filing of the said O.A. are that the applicant was selected and appointed as Staff Nurse under direct recruitment quota on 24.11.1998 and was posted to District Headquarters Hospital, Tandur, Rangareddy District and she was transferred to Osmania General Hospital vide proceedings dated 10.09.2001. While so, one Sri V.Laxmaih was admitted into the hospital for certain ailments and he was asked to get certain medicines by the duty doctor which were purchased from outside. The applicant was asked to give the injection, which was prescribed by the duty doctor. The applicant declined stating that it is the duty of the doctor to administer the injection. The applicant was physically abused and was threatened and the applicant administered the injection. A case in Crime NO.825 of 2002 was registered by the Police, Afzalgunj on 21.11.2002 against the applicant and the applicant was taken into custody and later she was released on bail.

The Tribunal after considering the material on record, allowed the said O.A.No.8226 of 2003 by setting aside the order, dated 21.11.2002 passed by the first respondent therein.

Aggrieved by the order passed by the Administrative Tribunal in O.A.No.8226 of 2003, dated 12.05.2004, the respondents therein filed the present W.P.No.12858 of 2004.

It was contended by the learned counsel for the applicant before the Tribunal that the first respondent therein has no jurisdiction to place the applicant under suspension. But, however, the Tribunal accepting the case of the applicant has allowed the O.A. observing that it is the Director of Medical Education who is the competent authority to appoint the staff nurses, but not the Regional Director of Medical and Health Services and held that the impugned orders issued by the first respondent are against the Rule 3 of A.P. Nursing Service Rules.

Aggrieved by the same, the present Writ Petition has been filed by the respondents therein.

It is contended by the learned Government Pleader that the Regional Director of Medical and Health Services is the competent authority who has appointed the respondent herein by proceedings dated 24.11.1998 and the same authority has transferred the respondent to the Osmania General Hospital, Hyderabad.

In view of the above proceedings, we do not want to go into the controversy with regard to the competent authority for appointing the respondent herein in view of the fact that the Regional Director of Medical and Health Services, Hyderabad has already passed the appointment orders. However, the facts in the present case go to show that the incident occurred in the year 2002 and the respondent has been placed under suspension on 21.11.2002. According to the counsel for the respondent, no further action has been initiated against the respondent herein in pursuance of the suspension order. Further, there is no material placed before this Court by the

department to show that they have initiated further action i.e. framing of charges against the respondent herein. In the absence of such material, we have to hold that the suspension of the respondent for such abnormal period is not inconformity with the rules. There is no material placed before this Court to show that the suspension orders have been reviewed from time to time.

In view of the fact that there is abnormal delay in framing charges against the respondent, we deem it proper to modify the order of the Tribunal to the effect that:

> "The department should complete the enquiry against the respondent within a period of three months from the date of receipt of a copy of this order, failing which, there shall be an order for reinstatement of the respondent."

With the above observations, the Writ Petition is disposed of. No costs.

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T.MEENA KUMARI, J

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P.LAKSHMANA REDDY, J

Dated:20.09.2005

Ccm

Note: CC within two days.